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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Administration of the ) CC Docket No. 92-237  
North American Numbering Plan )  
Carrier Identification Codes (CICs) )

OPPOSITION TO  
PETITION FOR EMERGENCY STAY

Cable & Wireless, Inc. ("Cable & Wireless") hereby opposes MCI's Petition for Emergency Stay of the September 1, 1998 phase-out deadline for blocking 3-digit CICs. As detailed below, MCI fails to pass the four-part test applied by the Commission to determine the merits of a stay request.

As noted in MCI's petition, the Commission utilizes a four-part test when weighing a request for an emergency stay: 1) whether the petitioner is likely to prevail upon the merits; 2) whether the petitioner will suffer irreparable harm if a stay is not granted; 3) whether other parties will be harmed if a stay is granted; and 4) grant of a stay is in the public interest.

The first part of the test, MCI's likelihood of prevailing upon the merits, is presently far from clear. There has been no conclusive demonstration that local exchange carriers ("LECs") will not be able to comply with the Common Carrier Bureau's May 1, 1998 *Declaratory Ruling*<sup>1</sup> that all 3-digit CICs be blocked by September 1, 1998. The Bureau has already issued data requests to major LECs. Until this data is examined, the Bureau does not have a substantial enough record with which to determine a course of

<sup>1</sup> *Administration of the North American Numbering Plan Carrier Identification Codes (CICs)*, Declaratory Ruling, CC Docket No. 92-237 (May 1, 1998) ("Declaratory Ruling").

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action. Thus, Cable & Wireless submits that it is still very uncertain that MCI will prevail upon the merits.

MCI's claim that it will be irreparably harmed without a stay, the second part of the Commission's test, is spurious. All carriers offering dial-around interexchange services, including most prominently MCI, have been marketing their products with the new 7-digit access codes for two months. Cable & Wireless currently markets a dial-around product with a 4-digit CIC in various markets throughout the country, and has done so without major technical difficulty. Yet MCI would have us believe that without a stay, it will suffer irreparable harm because of reported difficulties of employees making test calls utilizing the 5-digit access code, a dialing pattern which is no longer marketed! MCI offers no evidence that the current dial around product, which uses a 7-digit access code, has encountered any technical difficulties. It is hard to believe that MCI will suffer irreparable harm without a stay due to technical difficulties with a dialing pattern it has not marketed for two months.

MCI claims that a stay will not harm any parties, the third part of the Commission's test. A stay of 3-digit CIC blocking, however, would harm Cable & Wireless and any other carriers that have recently entered the dial-around business, and thus never marketed products using a 3-digit CIC. The Bureau, in its Declaratory Ruling, expressed its continuing concern about dialing disparities when both 3 and 4-digit CICs are in use.<sup>2</sup> Any continuation of the dialing disparities lengthens the competitive disadvantage under which Cable & Wireless and other carriers must operate. Thus, granting a stay will harm new entrant carriers such as Cable & Wireless.

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<sup>2</sup> See *Declaratory Ruling*, ¶ 22.

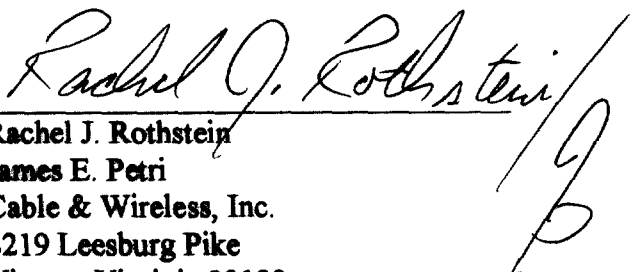
The fourth part of the Commission's test, the public interest, plainly does not favor the grant of a stay. First, the public interest does not favor putting a halt to LEC efforts to block a now invalid dialing pattern. The long distance industry, lead by the petitioner, has already educated the public about the change in dialing pattern. Any lengthening of the period during which the old dialing pattern is still used would only serve to increase consumer confusion about which dialing pattern is correct. Further, the competitive disadvantages of the dialing disparities are clearly not in the public interest. Second, MCI has not put any evidence into the record concerning the extent of continuing public use of the old dialing pattern. There has simply not been any demonstration of a significant public interest in halting LEC efforts to block 3-digit CICs.

Cable & Wireless submits that should the LEC's responses to the Bureau's data requests reveal problems complying with the *Declaratory Ruling*, the Bureau may then take appropriate action. However, staying LEC efforts to comply with the *Declaratory Ruling* in no way serves the public interest.

Thus, CABLE & WIRELESS, INC. urges the Commission to deny MCI's petition for an emergency stay of the September 1, 1998 phase-out deadline for blocking 3-digit CICs. MCI has failed to meet the Commission's 4-part test for emergency stays. Until the Bureau has digested LEC responses to its data request, it is far from clear that MCI will prevail upon the merits. MCI has not shown that its interests will be irreparably harmed if a stay is not granted. In fact, MCI does not provide evidence of any difficulty in marketing its dial-around product using the current dialing pattern; MCI seeks only to preserve an invalid dialing pattern for which usage is likely dwindling. Cable & Wireless, in fact, has not had any major difficulties marketing its own dial-around

product with a 4-digit CIC. Contrary to MCI's claims, new entrant carriers such as Cable & Wireless, that never marketed a product with the old dialing pattern, will be harmed by any continued use of the 3-digit CICs. MCI has also failed to present any evidence concerning the extent of continuing public use of the now outmoded 3-digit code, leaving the Commission without any gauge to judge the extent of potential public harm. Further, public confusion over correct dialing patterns would only increase with any prolonged usage of both dialing patterns. Cable & Wireless therefore asks the Commission to deny MCI's petition for emergency stay.

Respectfully submitted,  
CABLE & WIRELESS, INC.

  
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Dated: August 19, 1998

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I, James Petri, do hereby certify that I have this 19<sup>th</sup> day of August 1998, that I have served copies of the foregoing document via messenger\*, and postage pre-paid US mail, to the following:

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**Dated this 19th day of August, 1998**

  
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